

Remarks/Arguments:

Double Patenting Rejection

Claims 9, 11, 12, 15, 29-46, 48, 49, 56, 62, 70, 87 and 88 stand rejected under the ground of nonstatutory obviousness-type double patenting as unpatentable over claims 1-24 of U.S. Patent No. 6,652,580 in view of U.S. Patent No. 2,030,791. Applicants respectfully traverse this rejection.

Independent claim 9 recites: "[a]n endovascular graft for treating vasculature, comprising: a graft component including a first leg portion and a second leg portion, the first leg portion being attached along its length to the second leg portion, the graft component having an opening and a plurality of structures extending longitudinally beyond the opening, the opening having an opening circumference; an expandable frame; an attaching structure that attaches the expandable frame to the graft component by engaging at least one of the plurality of structures extending longitudinally beyond the opening; and an anchoring structure that anchors the expandable frame to the lumen wall; wherein the expandable frame is longitudinally separated from the graft component; wherein the attaching structure attaches the expandable frame to the graft component at discrete locations on the graft component so that less than an entirety of a graft circumference is affixed to the attaching structure and wherein the opening of the graft component lacks other structure supporting a totality of the opening circumference; and wherein at least one of the plurality of structures extending beyond the opening is in the form of a tab which is folded over a portion of the attaching structure."

The Office Action acknowledges that the '580 patent fails to disclose tabs that are folded over to attach to the attaching structures. The Office Action cites to the '791 patent as teaching that the folding over of tabs to secure two members is well known in the art. Applicants respectfully submit that no apparent reason to modify the reference teachings has been provided as required by the Supreme Court in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385 (2007). As noted by the Supreme Court, "[r]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness".

The '791 patent is directed to a pair of suspenders for external use to support a wearers pants while the present invention and the '580 patent relate to stent-graft structures which are to be implanted within a human body. Because the devices are to be implanted, they must be

designed and constructed with awareness of how such device may impact the human anatomy. In the proposed combination, one skilled in the art of implantable stent-grafts would not look to external clothing devices as such may have an adverse effect, for example, undesired occlusion or clotting. The present combination lacks a reasonable basis for the combination and instead is merely an impermissible hindsight reconstruction of the claimed invention using random, individual components.

Accordingly, in view of the lack of any articulated reasoning to modify the stent-graft of the '580 patent to arrive at the claimed endovascular graft, withdrawal of the rejection on this ground is earnestly solicited.

Furthermore, even if the references were properly combinable, the cited references fail to teach or suggest each limitation of the claimed invention. Independent claim 9 recites "wherein at least one of the plurality of structures extending beyond the opening is in the form of a tab which is folded over a portion of the attaching structure." The Office Action cites to Fig. 11 of the '580 patent as teaching tabs of the graft. As shown in Fig. 11, the fixation device 100, not attaching structure, passes directly through holes in the graft material. Even if ties 110 were utilized, Fig. 10 shows that such ties 110 are configured to extend perpendicular to both the fixation device and the graft surface, that is, the ties extend in a radial plane. Such ties would not be receptive to a folding over of the tabs, but instead are only configured to extend through a hole in the graft material.

It is respectfully submitted that since there is no basis for combining the cited references and that even if combined, the references fail to teach each limitation of the claimed invention, the claims are not obvious in view of the combination of the '580 patent and the '791 patent. Withdrawal of the double patenting rejection is respectfully requested.

Claim Rejections Under 35 U.S.C. §103

Claims 9, 11, 12, 15, 29-46, 48, 49, 56, 62, 70, 87 and 88 stand rejected under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 6,652,580 in view of U.S. Patent No. 2,030,791. Applicants respectfully traverse this rejection.

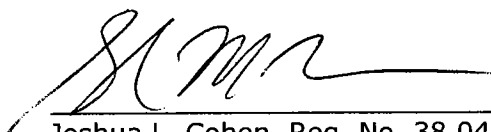
The Office Action provides no further basis for support of this rejection beyond that set forth in the double patenting rejection. As explained above, there is no basis for combining the cited references and even if combined, the references fail to teach each limitation of the claimed

invention. Accordingly, the claims are not obvious in view of the combination of the '580 patent and the '791 patent. Withdrawal of the rejection under 35 U.S.C. §103 is respectfully requested.

It is respectfully submitted that each of the pending claims are in condition for allowance. Early reconsideration and allowance of each of the pending claims are respectfully requested.

If the Examiner believes an interview, either personal or telephonic, will advance the prosecution of this matter, it is respectfully requested that the Examiner contact the undersigned to arrange the same.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JLC', is written over a horizontal line.

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